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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/754,031	01/02/2001	William J. Payer		2037

7590 12/05/2002
WILLIAM J PAYER
4860 PARKVIEW MINE DRIVE
SUGAR HILL, GA 30518

EXAMINER

NGUYEN, CHI Q

ART UNIT PAPER NUMBER

3637

DATE MAILED: 12/05/2002

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

09/754,031

Applicant(s)

PAYER, WILLIAM J.

Examiner

Chi Q Nguyen

Art Unit

3637

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 03 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 02 January 2001.
- 2a) ☒ This action is FINAL. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-28 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-28 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☐ The proposed drawing correction filed on _____ is: a) ☐ approved b) ☐ disapproved by the Examiner.
If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

Priority under 35 U.S.C. §§ 119 and 120

- 13) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
* See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).
a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449) Paper No(s) _____
- 4) ☐ Interview Summary (PTO-413) Paper No(s). _____
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other:

DETAILED ACTION

In response to Applicant's amendment filed on 9/27/02 have been entered. However, the substitution of the specification was not requested by examiner thus it will not be entered.

Claim Objections

1. Claims 1, 3, 6-28 are objected to because of the following informalities: The preamble of the claim appears as a method claim, however there are no method steps. Appropriate correction is required.

Claim Rejections - 35 USC § 112

2. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

3. Claims 1, 3, 6-28 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention. In claim 1, the preamble as the method for erecting typically a building site. However, claims 3, 6-28 no assembling steps involved and the claimed language not consistent as independent claim 1. Therefore, examiner not sure that the applicant's claims are method of building or apparatus of the building.

Claim Rejections - 35 USC § 102

4. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

Art Unit: 3637

5. Claims 1-11, 15-17, 19-21, 23-28 are rejected under 35 U.S.C. 102(b) as being anticipated by Graham-Wood (US 3,304,675).

Graham-Wood disclose a building construction comprising a plurality of vertical members 11, a plurality of horizontal members 12 are secured to vertical members 11 by bolts 18 and forming typically rectangular configuration (fig. 2), vertical members 13 are channel-sectioned steel, girders 41, ground foundation 10 (see figs. 5-6).

Claim Rejections - 35 USC § 103

6. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

7. Claims 12-14, 18 and 22 are rejected under 35 U.S.C. 103(a) as being unpatentable over Graham-Wood (US 3,304,675) in view of Ford (US 5,638,651).

Graham-Wood disclose a building construction comprising a plurality of vertical members 11, a plurality of horizontal members 12 are secured to vertical members 11 by bolts 18 and forming typically rectangular configuration, vertical members 13 are channel-sectioned steel, girders 41 and a ground foundation 10.

Graham-Wood do not disclose expressly and specifically building members are made steel with exterior coating and rust-inhibitive material, members are joint by weld.

Ford teaches interlocking panel building system having steel channel 148 with galvanized coating. At the time of the invention, it would have been obvious to a person

Art Unit: 3637

of ordinary skill in the art to have Gram-Wood steel building members galvanized coating from Ford. The motivation for doing so would have been to provide structural building members free of rust thus preventing any fatigue failure.

With regard to claims 14, 18, and 22 Graham-Wood do not explicitly teach the building members are joint by weld, examiner considers this method of forming a device is not germane to the issue of patentability of the device itself. Therefore, this limitation has not been given patentable weight. Furthermore, it has been held an obvious matter of design choice to have building structural members joint together by choice of fastening means (e.g. weld).

Response to Arguments

Examiner acknowledges that there is no applicant's arguments or comments to the last office action made on 4/24/02 therefore, examiner still maintains the rejection and will made it final.

Conclusion

8. **THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within **TWO MONTHS** of the mailing date of this final action and the advisory action is not mailed until after the end of the **THREE-MONTH** shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of

Art Unit: 3637

the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

7. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Chi Q. Nguyen whose telephone number is (703) 605-1224, Monday-Thursday (7:00-5:00), Fridays off or examiner's supervisor, Lanna Mai can be reached at (703) 308-2486. The fax number for the organization where this application or proceeding assigned are (703) 872-9326 for regular communications and (703) 872-9327 for After Final communications.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is (703) 308-1113.

Chi Nguyen

CQN

12/2/02

James O. Hansen

JAMES O. HANSEN
PRIMARY EXAMINER